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## Department of Toxic Substances Control

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### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

#### **STATEMENT OF FINDINGS**

#### **HITACHI CAMPUS AND MIXED-USE TRANSIT VILLAGE PROJECT FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS City of San Jose, Santa Clara County, California**

#### **Corrective Action Remedy Selection Use of the Environmental Impact Report and Findings of Fact and Statement of Overriding Considerations**

The Department of Toxic Substances Control (DTSC) reviewed the Final Environmental Impact Report (EIR) for the Hitachi Campus and Mixed-Use Transit Village Project (Project), State Clearinghouse Number 2004072110, prepared by the City of San Jose (City) and certified on June 6, 2005. The EIR consists of Volume I: Draft EIR, dated March 25, 2005; First Amendment to the Draft EIR; and Findings of Fact and Statement of Overriding Considerations, dated June 21, 2005. The EIR, Resolution No. 72772, which is the Findings of Fact and Statement of Overriding Considerations (FFSOC), dated June 2005, and Corrective Measures Study (CMS) Report, Redevelopment Property, Hitachi Global Storage Technologies, Inc. (Hitachi), dated August 31, 2006, are incorporated by reference. Using its independent judgment, DTSC finds as follows:

- (A) The EIR, FFSOC, and CMS Report adequately addressed the proposed project impacts now before the DTSC for decision.
- (B) DTSC concurs with the findings made by the City in the FFSOC relating to the corrective action remedy activities described in the CMS Report for characterizing and managing contaminated soil that may be encountered during building demolition and earthwork activities related to Project site redevelopment. The corrective action remedy activities have been included in the EIR analysis, and mitigation measures are included in the EIR for land use, hydrology and water quality, biological resources, cultural resources, hazards and hazardous material, transportation, air quality, noise, visual/aesthetics, utilities, and energy resources. Cumulative and project-specific impacts were found for the following: cultural resources (historical buildings), traffic, air quality, visual/aesthetics, noise, and biological resources (trees), and energy. Corrective action remedy elements comply with the pertinent EIR/FFSOC mitigation measures.

In assessing impacts associated with the corrective action remedy activities, the City concluded that potential effects from the proposed Project to land use, biological resources (birds, raptors, bats), cultural resources (archaeological), hazards and hazardous material, transportation (for specified Project aspects), air quality (for specified Project aspects), noise (construction and demolition), visual/aesthetics (lighting), utilities, and energy resources would be reduced to below the level of significance by implementing mitigation measures except the following resource areas discussed below: transportation (at affected intersections at build out), air quality (regional-due to traffic congestion and consequent air emissions at build out), visual/aesthetics (views of scenic resources due to buildings and redesign of the area at build out), biological resources (trees), cultural resources (historical buildings at build out), noise (demolition and construction), and cumulative impacts to the aforementioned resources. The corrective action project activities are a small portion of the larger construction project planned for the area.

**1. Transportation:** The Project would result in significant impact associated with increased congestion at (6) six local City intersections. Project impacts are also identified for other City corridors and intersections, and interchanges. The EIR has determined that there are no feasible mitigation measures that the City could impose as conditions of Project approval at this time to reduce this impact to a less than significant level with the exception of the Cottle Road corridor and SR 85/Cottle Road interchange. The Project will require mitigation measures to reduce impacts to a less than significant level through reconfiguration of this interchange. The City prepared a Statement of Overriding Considerations to address the unavoidable impacts related to traffic and transportation. DTSC found that because contaminated soils that will be transported off site will constitute a portion of the larger development project undertaken by the City when the corrective action project is implemented, and that corrective action-related activities are temporary and time-limited, the corrective action project for soil characterization and contaminated soil removal will not have a significant impact on transportation.

**2. Air Quality (Regional):** The Proposed General Plan amendment would allow a significant number of additional residential units not reflected the 2000 Clean Air Plan (CAP) projections. The project emissions would exceed the threshold of significance for reactive organic gases (ROG) nitrogen oxides, and particulate matter less than 10 microns in diameter (PM10) due to traffic congestion and consequent air emissions. The Project would have a significant and unavoidable

impact on regional air quality. Implementing relevant General plan policies will reduce air quality impacts. Transportation Demand Management (TDM) measures will be implemented as mitigations for freeway impacts to reduce emissions in addition to implementing measures identified by the Bay Area Air Quality Management District to reduce emissions at the Planned Development (PD) Permit stage. The Project would have a significant and unavoidable impact on regional air quality.

Although mitigation measures would reduce air quality impacts, those impacts would not be mitigated to a less than significant level and would remain significant and unavoidable. The City prepared a Statement of Overriding Considerations to address the unavoidable impacts related to air quality. DTSC found that because development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented, and corrective action-related activities are a portion of the larger City development Project and are temporary and time-limited, the corrective action project for soil characterization and contaminated soil removal will not have a significant impact on air quality. In addition, dust control measures and air monitoring are included in the corrective action project to reduce impacts.

**3. Visual/Aesthetics (Views):** The proposed future site development would result in a significant change in visual character at the site and to the extent that existing views of the hills are obscured, could block views of scenic resources. The project development shall conform to the Planned Development Zoning development standards, which incorporate provisions for the landscaping, design, setbacks, and height requirements in the City's adopted Residential, Commercial, and Industrial Design Guidelines. Consistency with these guidelines will be specifically evaluated for proposed development at the Planned Development Permit stage. Affects to aesthetics are a significant and unavoidable impact. Development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented. Although mitigation measures would reduce visual/aesthetics impacts, those impacts would not be mitigated to a less than significant level and would remain significant and unavoidable. The City prepared a Statement of Overriding Considerations to address the unavoidable impacts related to visual/aesthetics. DTSC found that because development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented, the corrective

action project for soil characterization and contaminated soil removal will not have a significant impact on visual/aesthetics (views).

**4. Biological Resources - Trees:** The Project could result in the removal of up to 1,023 ordinance-sized trees and 4,514 non-ordinance-size trees. DTSC's corrective action project is for characterizing and managing contaminated soil that may be encountered during building demolition and earthwork activities at specific locations and other locations where contamination is suspected during site redevelopment. Development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented. Although mitigation measures would reduce tree impacts, those impacts would not be mitigated to a less than significant level and would remain significant and unavoidable. The City prepared a Statement of Overriding Considerations to address the unavoidable impacts related to trees. DTSC found that because development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented and corrective action-related activities are temporary and time-limited, the corrective action project for soil characterization and contaminated soil removal will not have a significant impact on biological resources.

**5. Cultural Resources (Historical Buildings):** The Project would demolish or substantially alter eight of the nine historical buildings which contribute to a potential historic district on the site (buildings 001, 005, 006, 007, 010, 013, 014, 015). Therefore, the Project would result in significant impacts to a historic resource. Although mitigation measures would reduce historical resources impacts, those impacts would not be mitigated to a less than significant level and would remain significant and unavoidable. The City prepared a Statement of Overriding Considerations to address the unavoidable impacts related to historical resources. DTSC found that because development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented and corrective action-related activities are temporary and time-limited, the corrective action project for soil characterization and contaminated soil removal will not have a significant impact on cultural resources.

#### **6. Noise (Demolition and Construction)**

**Significant Impact:** Project demolition and construction in conjunction with construction of other anticipated future development, particularly as anticipated at

other project sites near the Project vicinity would result in cumulatively considerable temporary construction noise impacts. Although mitigation measures would reduce demolition noise and construction noise impacts, those impacts would not be mitigated to a less than significant level and would remain significant and unavoidable. The City prepared a Statement of Overriding Considerations to address the unavoidable impacts related to demolition and construction noise. DTSC found that development parcels will already be disturbed by building demolition and other City-related Project activities when the corrective action project is implemented, and that corrective action-related activities are temporary and time-limited, and the corrective action project for soil characterization and contaminated soil removal would have a significant cumulative impact on demolition and construction noise.

**7. Significant Impacts:** The Project would result in significant and unavoidable project-specific and cumulative impacts to the following:

Biological resources (trees),  
Cultural resources (historical buildings),  
Transportation traffic impacts,  
Air quality impacts,  
Visual and aesthetic impacts, and  
Noise (temporary construction-related) impacts.

These impacts cannot be mitigated to a less than significant level by feasible changes or alterations to the Project. Feasible mitigation measures have been discussed in the attached Findings of Fact and Statement of Overriding Considerations for each environmental medium listed above. DTSC's corrective action project is temporary and time-limited. All project impacts have been identified in the City's EIR, and feasible mitigation measures are incorporated where they can feasibly reduce project impacts.

In accordance with the California Environmental Quality Act (CEQA) California Code of Regulations., title 14, section 15000, et seq., a statement of overriding considerations was adopted by the City for transportation, air quality, visual/ aesthetics, and biological resources (trees), cultural resources (historical buildings), and cumulative impacts to visual/aesthetics, transportation, air quality, and noise.

- (C) Approval of the corrective action remedy will not result in additional significant effects on the environment. Mitigation measures identified in the EIR and the FFSOC have been adopted by DTSC for this project and will be implemented to

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Mohinder S. Sandhu, P.E., Chief  
Standardized Permitting and Corrective Action Branch